

REMARKS

Summary of Office Action

Claims 33-122 are pending in the above-identified patent application.

The Examiner has objected to the claim numbering under 37 C.F.R. § 1.126. Claims 37-47, 63-95, 111-120 and 122 also have been objected to because of certain enumerated informalities.

Claim 33 has been provisionally rejected for obviousness-type double patenting over sibling Application No. 11/107,702 ("the '702 application").

Claims 34-38, 41-43, 46-48, 50-54, 56-60, 63, 64, 66-69, 71, 74, 75, 77-80, 82, 85, 86, 89-91, 93, 96, 97, 100-102, 104-113 and 118-120 have been rejected for obviousness-type double patenting over U.S. Patent No. 6,940,870 ("the '870 patent"), issued on parent Application No. 09/906,222.

Claims 39-40, 44, 45, 49, 50, 55, 62, 65, 70, 72, 73, 76, 77, 81, 83, 84, 87, 88, 92, 94, 95, 98, 99, 103, 115-117, 121 and 122 have been objected to as depending from rejected base claims. However, allowable subject matter has been indicated.

Summary of Applicant's Reply

Applicant notes with appreciation the indication of allowable subject matter in claims 39-40, 44, 45, 49, 50, 55, 62, 65, 70, 72, 73, 76, 77, 81, 83, 84, 87, 88, 92, 94, 95, 98, 99, 103, 115-117, 121 and 122. Applicant hereby expressly reserves the right to rewrite any one or more of these claims in independent form should its respective base claim ultimately not be allowed.

Applicant has amended claims 37-47, 63-95, 111-120 and 122 in order to more particularly define the invention.

Applicant also is submitting herewith Terminal Disclaimers under 37 C.F.R. § 1.321(b,c) relative to the '702 application and the '870 patent.

The Examiner's objections and rejections are respectfully traversed.

Applicant's Response to the Examiner's Claim Objections

The Examiner objected to the claim numbering under 37 C.F.R. § 1.126 because there was no claim 44 but two instances of claim 45. The Examiner has sua sponte renumbered the first instance of claim 45 to be claim 44. Applicant appreciates this correction by the Examiner.

The Examiner objected to claims 37-47, 63-95, 111-120 and 122 due to certain enumerated informalities. Applicant has amended claims 37-47, 63-95, 111-120 and 122 in order to more particularly define the invention and respectfully submits that the claims are no longer objectionable.

Applicant's Response to the Double-Patenting Rejections

Claim 33 has been provisionally rejected for obviousness-type double patenting over the '702 application.

A Terminal Disclaimer Under 37 C.F.R. § 1.321(b,c) relative to the '702 application is submitted herewith, disclaiming the portion of the term of any patent to be granted on this application which would extend beyond the expiration date of the full statutory term of any patent to be issued on the '702 application, in the event that said patent to be issued on the '702 application were to issue before said

patent to be issued on this application*. Accordingly, applicant respectfully requests that the provisional double patenting rejection of claim 33 should be withdrawn.

Claims 34-38, 41-43, 46-48, 50-54, 56-60, 63, 64, 66-69, 71, 74, 75, 77-80, 82, 85, 86, 89-91, 93, 96, 97, 100-102, 104-113 and 118-120 have been rejected for obviousness-type double patenting over the '870 patent.

A Terminal Disclaimer under 37 C.F.R. § 1.321(b,c) relative to the '870 patent is submitted herewith, disclaiming the portion of the term of any patent to be granted on this application which would extend beyond the expiration date (currently June 30, 2019, as adjusted) of the '870 patent**. Accordingly, applicant respectfully submits that the double patenting rejection of claims 34-38, 41-43, 46-48, 50-54, 56-60, 63, 64, 66-69, 71, 74, 75, 77-80, 82, 85, 86, 89-91, 93, 96, 97, 100-102, 104-113 and 118-120 should be withdrawn.

Conclusion

For the reasons stated above, applicant respectfully submits that this application, as amended, is in condition for

* It is applicant's and assignee's intention that if said patent to be issued on said Application No. 11/107,702 issues before any patent to be issued on the above-identified Application No. 10/677,397, and if any change in the patent statutes changes the expiration date of said patent to be issued on said Application No. 11/107,702 to a later date, or if said patent to be issued on said Application No. 11/107,702 is hereafter awarded patent term adjustment under 35 U.S.C. § 154(b), then the date beyond which the term of any patent to issue on this application is disclaimed shall change along with the expiration date of said patent to be issued on said Application No. 11/107,702.

** It is applicant's and assignee's intention that if any change in the patent statutes delays the expiration of parent patent 6,940,870, or if said patent 6,940,870 is hereafter awarded further patent term adjustment under 35 U.S.C. § 154(b), then the date beyond which the term of any patent to issue on this application is disclaimed shall change along with the expiration date of the parent patent or sibling application.

allowance. Reconsideration and prompt allowance of this application are respectfully requested.

Respectfully submitted,

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